

Docket No.: 1459-011

PATENT

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Yoke Min SIN, et al.

Serial No. 09/196,161

Filed: November 20, 1998

: Group Art Unit: 1645

: Examiner: N. Minnifield

For: RECOMBINANT VACCINE AGAINST INFECTIONS DISEASE IN FISH

RESPONSE

COMMISSIONER FOR PATENTS

Washington, D. C. 20231

Sir:

This paper responds to the office action dated September 6, 2002. The period for response to the referenced office action has been extended, by means of the petition and fee therefore filed herewith, for two (2) months to expire February 6, 2003.

Reconsideration of the patentability of the claims of the instant application is solicited in view of the following comments.

The examiner has withdrawn the outstanding final rejection and has issued a new rejection based upon a reference that had not previously been cited in support of a rejection of the claims.

In the new office action, the examiner has requested the submission of a new set of drawings because the previously submitted drawings were not considered to be of sufficient quality to permit the examiner to consider them. This requirement is not fully understood. It appears to applicants that at least Figures 1A, 1B, and 1C, as submitted, cannot be improved upon. Therefore, there is no further submission of these drawings. Figures 2A and 2B are being resubmitted herewith. These drawings have been copied from the He et al. article. They represent the best quality drawings that applicants can obtain. It is therefore urged that these drawings be accepted. In the event that the drawings are still considered to be insufficient, it is urged that the examiner telephone the undersigned attorney to discuss a possible course of action for rectifying the situation.

In the new office action, the declaration that has been filed in this application has been objected to. There is being filed herewith a declaration executed by all four (4) inventors. The declaration is in two separate documents. In the first of these documents, Messrs. Sin, Gong and

Lam executed the declaration for themselves, individually. In addition, Mr. Sin has also executed the declaration for the fourth inventor, Mr. Xu, who was unavailable to execute it himself as he was out of the country (Singapore) at the time. There is also filed herewith the statement of Mr. Sin indicating that he executed the declaration for Mr. Xu because of Mr. Xu's unavailability. Further, there is being submitted herewith a second declaration (that is substantially identical with the first above referenced declaration) executed by Mr. Xu when he returned. With the submission of these three documents, it is believed that all of the requirements of the statute and rules have been satisfied and this objection should be withdrawn. Should the examiner continue to require additional information of documentation, she is requested to telephone the undersigned attorney.

The examiner has commented that copies of some of the references that were cited in an IDS were not supplied and that therefore, these references would not be considered by the examiner or reported on the face of the patent that will issue from this application. There is being filed herewith a supplemental IDS submitting a copy of the Smith et al. reference that the examiner sent to applicants but did not initial on the IDS. Copies of additional references will be supplied shortly.

In the outstanding office action, the examiner has rejected the patentability of claims 1, 3, 4, 6, 7 and 8 as being anticipated by the disclosure of the Lin et al. article (Dev. Biol. Stand. 1997, 90:461). The rejection of claims 2 and 5 is for obviousness in view of the combination of the disclosure of the Lin et al. article, the Smith et al. article and the Clark et al article. These rejections are respectfully traversed, and the examiner is requested to reconsider her position in view of the following comments.

An anticipation rejection can only lie where each and every material limitation set forth in a rejected claim is found in a single reference. Claim 1, the only independent claim presently in prosecution, requires a recombinant fusion protein derived from an artificial DNA sequence for immobilization antigen, repeat I, of Ich. The Lin et al. reference does not disclose this material. This reference discloses immobilizing an antigen of Ich but does not disclose a fusion protein as is required by the claims. Therefore, no anticipation rejection can lie.

The instant invention is defined in the claims as requiring a fusion protein derived from an artificial DNA sequence. The reference only discloses using purified immobilization antigen with membrane fraction directly from protozoans. There is nothing in the Lin et al reference that relates to artificial DNA sequence. Thus, this reference does not anticipate the claims of this application.

The Clark et al. publication the isolation and characterization of nucleotides and the deduced amino acid sequences sequence of the ich antigen CDNA. This isolation was from the trophozoites of the protozoans. The antigen itself was isolated directly from Ich tomites. Thus, there is no disclosure of artificial DNA sequences or of fusion proteins derived therefrom.

Based on this analysis, it is clear that the claims of this application define a patentable invention over the prior art that has been cited. Allowance of all claims is solicited.

Respectfully submitted,

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Attach: New drawing (Figures 2A and 2B)
IDS w/references

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